(22)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

(DIVISION BENCH)

CORAM : Hon'ble Shri S.R. Nayak, CJ
Hon'ble Shri Satish K. Agnihotri, J.

Misc. Appeal No. 531 OF 2005

APPELLANTS
CLAIMANTS

1. Smt. Manju Thakur, W/o Late Vijay Singh Thakur, aged about 47 years
2. Ajay Thakur, S/o Late Vijay Singh Thakur, aged about 26 years.
3. Smt. Kishorimani W/o Purnachand, aged about 71 years

All the resident of - Choubey Colony Raipur, District -Raipur (C.G.)

Versus

RESPONDENTS
NON-CLAIMANTS

1. Manaram S/o Bishalram Patel, aged about 45 years, Resident of - New Khursipar (Wrongly mentioned Khursipal), Bhilai, District - Durg (C.G.) (Driver of Truck bearing registration No. C.G. -07/ZC 1757)
2. Smt. Gouri W/o Rajendra Jain, aged about 43 years, Resident of - Behind Panda Brothers, Vasundhra Nagar, Bhilai -3, District - Durg (C.G.)
3. Narad Kumar S/o Noharlal Sahu, aged about 30 years, R/o - Lodhipara, Pandri, Raipur, District- Raipur (C.G.)
4. Virendra Kumar Maini S/o S.P. Maini, Through R.B. Shukla, Rairu Distillery, Gwalior, District - Gwalior (M.P.)
5. The National Insurance Company Limited, Through Divisional Office, Beside of Lalganga Complex, G.E. Road, Raipur, District - Raipur (C.G.) (Insurer of both vehicle)

(23)

Present:

Mr. Shivendu Pandya, learned counsel for the appellants.

Mr. Sanjay K. Agrawal, learned Standing counsel for respondent No.5/ Insurance Company.

ORAL ORDER
(Passed on 2nd of December 2005)

The following Order of the Court was passed by

S.R. Nayak, CJ:

The claimants in a death case not being satisfied with the compensation awarded by the MACT have preferred this appeal for more compensation. It was contended by learned counsel for the appellants that the Tribunal has applied wrong multiplier in assessing loss of dependency. It was pointed out that though as per postmortem report, the age of the deceased was shown as 45 years, the wife of the deceased in her deposition stated that the deceased was 52 years of age and that even taking the age of the deceased as 52 years, appropriate multiplier would have been 11 and not 10. It was also contented by learned counsel for the appellants that the Tribunal has erred seriously in law in awarding a sum of Rs. 10,000/- under all conventional heads and it ought to have awarded compensation separately under conventional heads such as 'loss of consortium', 'loss of love and affection', 'loss to estate' and funeral expenses. We also heard Mr. Sanjay K Agrawal, learned standing counsel for the Insurance Company on merit.

(2) We are of the considered opinion that the appropriate multiplier to be applied for assessment of loss of dependency is 11 and not 10. The deceased was 52 years of age on the date of the accident, therefore, the appropriate multiplier is 11. If we apply multiplier 11, loss of dependency would come to Rs. 2,64,000/-. We also award Rs. 20,000/- towards loss

of consortium in favour of the widow, Rs. 20,000/- towards loss of love and affection in favour of minor child, Rs. 20,000/- towards loss to estate and Rs. 5,000/- towards funeral expenses.

(3) In the result, we allow the appeal in part and in substitution of the impugned award, we award total compensation of Rs. 3,29,000/- under the following heads:-

(I)	Loss of dependency	-	Rs. 2,64,000/-
(II)	Loss to estate	-	Rs. 20,000/-
(III)	Loss of consortium	-	Rs. 20,000/-
(IV)	Loss of love and affection	-	Rs. 20,000/-
(V)	Funeral expenses	-	Rs. 5,000/-
	Total		Rs. 3,29,000/-

with interest @ 6% from the date of claim petition till payment. The Insurance Company shall deposit the balance compensation money within a period of one month from today. The MACT shall deposit Rs. 1,50,000/- in any Nationalized Bank or Postal Savings Account whichever earns more interest initially for a period of three years. In the facts and circumstances of the case, the parties shall bear their respective costs.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge